



[10191/3909] *AFW*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant(s) : Thomas SONNENREIN et al.
Serial No. : 10/517,740
Filed : July 6, 2005
For : METHOD AND DEVICE FOR ESTABLISHING A
COMMUNICATION CONNECTION BETWEEN A CONTROL
CENTER AND A TERMINAL

Art Unit : 2617
Examiner : Jamie Michele HOLLIDAY
Confirmation No. : 1610

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Date: December 24 2008

Reg. No. 36,197

Signature: _____

Jong H. Lee

**TRANSMITTAL LETTER FOR APPEAL BRIEF
AND REQUEST FOR EXTENSION OF TIME**

S I R :

Further to the Notice of Appeal dated July 22, 2008 (received at the PTO on July 25, 2008) for the above-referenced application, enclosed is a copy of an Appeal Brief. A **three-month extension of time** for filing an Appeal Brief is requested. The extended due date falls on **December 29, 2008**.

The Commissioner is hereby authorized to charge payment of the 37 C.F.R. § 41.20(b)(2) appeal brief filing fee of **\$540**, as well as the **\$1,110** fee for the extension of time, and any additional fees associated with this communication, to the deposit account of **Kenyon & Kenyon LLP**, deposit account number **11-0600**.

Respectfully submitted,

KENYON & KENYON LLP

(P. NO. 36,197)
By: JONG LEE for Gerard Messina
Gerard A. Messina (Reg. No. 35,952)
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646

Dated: December 24, 2008

12/30/2008 SSESHE1 00000013 10517740

01 FC:1402 540.00-DA
02 FC:1253 1110.00 DA



[10191/3909]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant(s) : Thomas SONNENREIN et al.
Serial No. : 10/517,740
Filed : July 6, 2005
For : METHOD AND DEVICE FOR ESTABLISHING A
COMMUNICATION CONNECTION BETWEEN A CONTROL
CENTER AND A TERMINAL

Art Unit : 2617
Examiner : Jamie Michele HOLLIDAY
Confirmation No. : 1610

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Date: December 24, 2008

Reg. No. 36,197

Signature: _____

Jong H. Lee

APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 41.37

S I R :

Applicants filed a Notice of Appeal dated July 22, 2008 (received at the PTO on July 25, 2008), appealing from the Final Office Action dated January 25, 2008, in which claims 14-41 of the above-identified application were finally rejected. This Brief is submitted by Applicants in support of their appeal.

12/30/2008 SSESHE1 00000013 110600 10517740

01 FC:1402 540.00 DA
02 FC:1253 1110.00 DA

I. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Robert Bosch GmbH of Stuttgart, Germany. Robert Bosch GmbH is the assignee of the entire right, title, and interest in the present application.

II. RELATED APPEALS AND INTERFERENCES

No appeal or interference which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal is known to exist to the undersigned attorney or is believed by the undersigned attorney to be known to exist to Applicants.

III. STATUS OF CLAIMS

Claims 14-41 are currently pending in the present application and are being appealed. Among the appealed claims, claims 14-16 and 37-41 are independent; claims 17, 18, 23, 26, 28 and 31 ultimately depend on claim 14; claims 19, 20, 24, 29, 32, 33 and 34 ultimately depend on claim 15; claims 21, 22, 25, 27, 30, 35 and 36 ultimately depend on claim 16.

IV. STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final Rejection mailed on January 25, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

With respect to independent claim 14, the present invention provides a method for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5) which is situated in a motor vehicle (Substitute Specification, p. 3, l. 25-26), the method including:

requesting, by a call by the control center, establishment of a connection to the terminal; (Fig. 3, step 102; p. 3, l. 28-29);

terminating, by the terminal, the call without accepting the call; (Fig. 4, step 202; p. 9, l. 9 and 13-14);

checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center; (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32);

in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center; (p. 9, l. 14-16; p. 5, l. 34 – p. 6, l. 1); and

transmitting data via the established communication connection (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18).

With respect to independent claim 15, the present invention provides a method for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5), the method including:

transmitting, by the control center, a call to a selected terminal as a function of an external request, (p. 4, l. 4-8), and expecting a request for connection (p. 5, l. 28-30) from the terminal after the terminal has performed the steps of: a) terminating the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14); and b) checking, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32); and

subsequently communicating data between the control center and the terminal (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18).

With respect to independent claim 16, the present invention provides a method for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5) which is situated in a motor vehicle (Substitute Specification, p. 3, l. 25-26), the method including:

receiving, by the terminal, a call requesting establishment of a connection; (Fig. 3, step 102; p. 4, l. 9-12);

terminating, by the terminal, the call without accepting the call; (Fig. 4, step 202; p. 9, l. 7-9 and 13-14);

checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center; (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32);

in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center; (p. 9, l. 14-16; p. 5, l. 34 – p. 6, l. 1); and

transmitting data via the established communication connection (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18).

With respect to independent claim 37, the present invention provides a system for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5) which is situated in a motor vehicle (Substitute Specification, p. 3, l. 25-26), data being transmitted via the established communication connection (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18), the system including:

a control center (Fig. 1, element 1) including an arrangement configured to transmit a request to establish a connection via a call by a transmission path; (Fig. 3, step 102; p. 3, l. 28-29); and

a terminal (Fig. 1, element 5) including an arrangement which is configured to receive the call (Fig. 3, step 102; p. 4, l. 9-12), terminate the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14), check, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32), and in response to a determination connection automatically establish a connection to the control center (p. 9, l. 14-16; p. 5, l. 34 – p. 6, l. 1).

With respect to independent claim 38, the present invention provides a system for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5), data being transmitted via the established communication connection (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18), the system including:

a control center (Fig. 1, element 1) including an arrangement configured to place a call to a selected terminal based on an external request (p. 4, l. 4-8), and configured to expect a request to establish a connection (p. 5, l. 28-30) from the terminal after the terminal has performed the steps of: a) terminating the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14); and b) checking, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32), and configured to

subsequently perform a client-server communication with the terminal (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18).

With respect to independent claim 39, the present invention provides a system for establishing a communication connection between a control center (Fig. 1, element 1) and a terminal (Fig. 1, element 5) situated in a motor vehicle (Substitute Specification, p. 3, l. 25-26), data being transmitted via the established communication connection (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18), the system including:

a terminal (Fig. 1, element 5) including an arrangement configured to: a) receive a request call from the control center to establish a connection (Fig. 3, step 102; p. 4, l. 9-12); b) terminate the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14); c) check, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32), and d) in response to a determination that the connection to the control center is permitted to be established, automatically establish at least one predefined connection to the control center (p. 9, l. 14-16; p. 5, l. 34 – p. 6, l. 1).

With respect to independent claim 40, the present invention provides a computer-readable storage medium storing a computer program (p. 7, l. 11-16) having program code which, when executed by a computer at a control center, causes the computer to: a) place a call to a selected terminal based on an external request (p. 4, l. 4-8); b) expect a request to establish a connection (p. 5, l. 28-30) from the terminal after the terminal has i) terminated the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14), and ii) checked, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32), and c) subsequently perform a client-server communication with the terminal (Fig. 3, step 112; Fig. 4, step 206; p. 8, l. 11-13; p. 9, l. 16-18).

With respect to independent claim 41, the present invention provides a computer-readable storage medium storing a computer program (p. 7, l. 11-16) having program codes, which when executed by a computer at a terminal in a motor vehicle, causes the computer to: a) receive from a control center a request call to establish a connection to the control center (Fig. 3, step 102; p. 4, l. 9-12); b) terminate the call without accepting the call (Fig. 4, step 202; p. 9, l. 7-9 and 13-14); c) check, on the basis of data delivered by the call, whether the call is at least one of intended to

initiate a connection to the control center and authorized to initiate a connection with the control center (Fig. 4, step 200; p. 4, l. 12-16; p. 5, l. 12-13; p. 8, l. 30-32), and d) in response to a determination that the connection to the control center is permitted to be established, automatically establish at least one predefined connection to the control center (p. 9, l. 14-16; p. 5, l. 34 – p. 6, l. 1).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review on appeal in this case:

(A) Whether pending claims 14-22, 26-27, 37, 39 and 41 are unpatentable under 35 U.S.C. § 103(a) over the combination of Kennedy (US Patent Number 5,734,981) and Tomcik (US Patent Number 6,317,607).

(B) Whether pending claims 23-25 and 28-30 are unpatentable under 35 U.S.C. § 103(a) over the combination of Kennedy, Tomcik and Oka (U.S. Patent No. 6,091,945).

(C) Whether pending claims 31, 33-36, 38 and 40 are unpatentable under 35 U.S.C. § 103(a) over the combination of Kennedy, Tomcik and Kolls (U.S. Patent No. 6,856,820 B1).

(D) Whether pending claim 32 is unpatentable under 35 U.S.C. § 103(a) over the combination of Kennedy, Tomcik, Oka and Kolls.

VII. ARGUMENTS

A. Rejection of Claims 14-22, 26-27, 37, 39 and 41 under 35 U.S.C. § 103(a)

Claims 14-22, 26-27, 37, 39 and 41 have been rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Kennedy (US Patent Number 5,734,981) and Tomcik (US Patent Number 6,317,607). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. §103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the

application disclosure. Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091 (Fed. Cir. 1986). Third, the prior art references must teach or suggest all of the claimed limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Independent claim 14 recites, in relevant parts, the following: (a) “**requesting, by a call** by the control center, establishment of a connection to the terminal”; (b) “**terminating**, by the terminal, **the call without accepting the call**”; (c) “checking, by the terminal, on the basis of data delivered by a call, whether **the call is at least one of intended to initiate a connection to a control center and authorized to initiate a connection with the control center**”; and (d) “in response to a determination that the connection to the control center is permitted to be established, automatically **establishing, by the terminal, a communication connection to the control center**; and transmitting data via **the established communication connection**.” It is absolutely clear that claim 14 requires **two completely different and separate communication actions**: the first action is “**a call** by the control center,” **which is terminated by the terminal without being accepted**, and the second action is “**a communication connection to the control center**” which is established **by the terminal** if it is determined that “**the call is at least one of intended to initiate a connection to a control center and authorized to initiate a connection with the control center**.” Independent claims 15-16 and 37, 39 and 41 similarly require **terminating the call from the control center without accepting** and separately establishing communication between the terminal and the control center if it is determined that “**the call is at least one of intended to initiate a connection to a control center and authorized to initiate a connection with the control center**.”

In support of the rejection, the Examiner cites Tomcik as teaching the feature of terminating a call without accepting the call. However, the Examiner’s assertions regarding the motivation for incorporating the teachings of Tomcik into the method of Kennedy are limited to the following: (a) “to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by Tomcik et al. in the system of Kennedy, III et al. **in order to successfully deliver call** in a communication system” (Final Office Action, p. 5); and (b) “both references teach call delivery systems, . . . [and] Tomcik et al. is only used to overcome the limitation ‘terminating, by the terminal, the call without accepting the call’” (Advisory Action of July 1, 2008). Applicants submit that the Examiner’s arguments do not make any sense, as explained in detail below.

To the extent the Examiner contends that “Tomcik et al. is only used to overcome the limitation ‘terminating, by the terminal, the call without accepting the call’” (Advisory Action), there are several critical flaws. Not only is the Examiner attempting to incorporate the “rejecting-a-call” teaching of Tomcik into the system of Kennedy completely out of context, but the asserted combination clearly ignores the fundamentally incompatible teachings of Kennedy and Tomcik. In this regard, the Supreme Court has clearly indicated that it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed, see KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007), and that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id., at 1396. Applicants note that the Examiner’s explanations in support of the combination of Kennedy and Tomcik simply do not satisfy the level of reasoning required by the Supreme Court. Tomcik describes rejecting a call when a communication mode thereof has not been selected, after which rejection no further connection of any kind is made. Kennedy, on the other hand, clearly deals with coupling calls as acknowledged by the Examiner (“when a mobile unit calls the platform, a call from a caller 36 and the call from the mobile unit are coupled to complete call delivery”; Final Office Action, p. 4), and there is simply no suggestion in Kennedy that rejecting a call as a matter of standard operating procedure as claimed in present claims, let alone any suggestion regarding how such rejection of a call as a matter of standard operating procedure would provide any benefit to the disclosed system of Kennedy.

To the extent the Examiner is contending that the motivation for the asserted modification is “to allow a wireless device determine if an incoming call is in a selected communication mode before accepting as taught by Tomcik et al. in the system of Kennedy, III et al. in order to successfully deliver call in a communication system” (Final Office Action, p. 5), this contention simply does not make sense since determining “if an incoming call is in a selected communication mode” is completely unrelated to the operation of the system of Kennedy, i.e., successful delivery of a call in Kennedy is not dependent on determining “if an incoming call is in a selected communication mode,” and there is simply no logical reason why one of ordinary skill in the art would add to the operation of Kennedy the step of terminating the call without accepting the call, in combination with coupling calls to complete a call delivery as taught by Kennedy; indeed, the combined steps are completely at odds with one another.

Independent of the above, the Examiner's asserted modification of Kennedy to incorporate the step of "terminating, by the terminal, the call without accepting the call" would clearly change the principle of operation of the prior art invention being modified (i.e., Kennedy), or render the prior art invention being modified unsatisfactory for its intended purpose, thereby defeating the obviousness conclusion as a matter of law (see MPEP 2143.01 V & VI), since the operation of Kennedy is clearly focused on coupling calls and has no logical relationship to rejecting a call as a matter of standard operating procedure.

With respect to the claimed limitation of "checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center," the Examiner contends that the use of page messages in Tomcik discloses the above-recited claimed limitation of checking, by the terminal, whether the call is intended to initiate a connection to a control center. However, there is absolutely no suggestion in Tomcik that the page message indicates any intent to connect to a control center; instead, the page message is only used by a mobile device to determine whether or not an incoming call from a second mobile device matches selected communication modes (voice and data modes). If there is a match, the call is accepted; if there is no match, the call is rejected. (See Tomcik, Abstract and column 8, lines 47 to 52). It is the second mobile device's attempt to engage the mobile device in communication which is conveyed by the page message, not whether the call is intended to initiate a connection to the control center.

In the Advisory Action, the Examiner simply reiterates the statement that "Tomcik discloses receiving a page message which is a request for call initialization (call is at least one of intended to initiate a connection to the control center)," but there is simply no basis for this assertion, and the Examiner does not provide any supporting citation for this assertion. Furthermore, to the extent the Examiner contends that "call initialization procedures are known in the art, wherein a network entity (control center) forwards and processes call set up requests," this assertion is a completely unsupported opinion of the Examiner, and no prior art has been cited by the Examiner in support of this contention. In any case, regardless of whether "call initialization procedures are known in the art, wherein a network entity (control center) forwards and processes call set up requests," the merits of which contention aren't conceded by Applicants, Tomcik clearly does not disclose such operation. In addition, to the extent the Examiner may be implicitly arguing that the page message of Tomcik would inherently be

handled by the control center, and therefore the alleged inherent involvement of the control center (which is not conceded by Applicants) would satisfy claimed limitation, this implicit assertion is also logically flawed: even if one assumes the inherent involvement of the control center in the handling of the page message, it does not logically follow that the mobile device receiving the page checks whether the call is intended to initiate a connection to a control center, and indeed there is no need for such checking since (according to the Examiner's logic) the control center would always be involved in the handling of the page message. In any case, there is simply no suggestion in Tomcik that any checking of whether the call is intended to initiate a connection to a control center is performed by the terminal "on the basis of data delivered by the call."

In addition to the above, the Examiner also contends that Kennedy's use of call back messages also discloses "checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center; in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center; and transmitting data via the established communication connection." In this regard, claim 14 clearly recites that "the call" which includes the data for the checking is terminated ("terminating, by the terminal, the call without accepting the call"), and a separate connection is established in response to a determination that the connection to the control center is permitted to be established ("automatically establishing, by the terminal, a communication connection to the control center; and transmitting data via the established communication connection"). In contrast, Applicants note that the call back message operation disclosed in Kennedy is not intended to create a separate connection to another device, let alone to a control center. The call back messages of Kennedy are transmitted by a platform 18 to a mobile unit 12 when a caller 36 calls the mobile unit 12. If the mobile unit 12 decides to call the platform 18, the call from the caller 36 and the call from the mobile unit 12 are coupled to complete call delivery. (See Kennedy, column 8, lines 22 to 32). Thus, the call back message and the call produced by the mobile unit 12 in response to the call back message of Kennedy are actually part of the same call, rather than a connection separate from the call itself as provided for in claim 14. To the extent the Examiner contends that "the features upon which applicant relies (i.e., separate/multiple connections) are not recited in the rejected claim(s)," and that "Applicants only claim connection between the called party and a control center," these contentions are clearly incorrect: claim 14

clearly recites that “the call” by the control center is terminated by the terminal, and subsequently “a communication connection to the control center” is established by the terminal in response to a determination that the connection to the control center is permitted to be established,” which “communication connection to the control center” logically has to be separate and distinct from “the call” which was terminated. Based on simple logic, there is no reasonable interpretation of claim 14 that would support the conclusion that “the call” by the control center, which is terminated by the terminal, is not separate from “a communication connection to the control center” which is established by the terminal in response to a determination that the connection to the control center is permitted to be established.

For at least the foregoing reasons, independent claims 14-16 and 37, 39 and 41, as well as dependent claims 17-22 and 26-27, are not rendered obvious by the combination of Kennedy and Tomcik. Reversal of the obviousness rejection is requested.

B. Rejection of Claims 23-25 and 28-30 under 35 U.S.C. § 103(a)

Claims 23-25 and 28-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik and Oka (U.S. Patent No. 6,091,945).

Claims 23-25 and 28-30 ultimately depend on claims 14-16. For the reasons discussed above in connection with claims 14-16, the overall teachings of Kennedy and Tomcik clearly do not render parent claims 14-16 obvious. Furthermore, Oka clearly does not remedy the deficiencies of Kennedy and Tomcik as applied against independent claims 14-16. Therefore, the overall teachings of Kennedy, Tomcik and Oka cannot render dependent claims 23-25 and 28-30 obvious. Reversal of the obviousness rejection is requested.

C. Rejection of Claims 31, 33-36, 38 and 40 under 35 U.S.C. § 103(a)

Claims 31, 33-36, 38 and 40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik and Kolls (U.S. Patent No. 6,856,820 B1).

Claims 31 and 33-36 ultimately depend on claims 14-16, and independent claims 38 and 40 recite features substantially similar to the features of independent claims 14-16 discussed above. For the reasons discussed above in connection with claims 14-16, the overall teachings of Kennedy and Tomcik clearly do not render parent claims 14-16 obvious. In addition, Kolls

clearly fails to remedy the deficiencies of Kennedy and Tomcik as applied against claims 14-16. Therefore, the overall teachings of Kennedy, Tomcik and Kolls cannot render claims 31, 33-36, 38 and 40 obvious. Reversal of the obviousness rejection is requested.

D. Rejection of Claim 32 under 35 U.S.C. § 103(a)

Claim 32 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy, Tomcik, Oka and Kolls.

Claim 32 ultimately depends on claim 15. For the reasons discussed above in connection with claims 14-16, the overall teachings of Kennedy and Tomcik clearly do not render parent claim 15 obvious. In addition, Oka and Kolls clearly fail to remedy the deficiencies of Kennedy and Tomcik as applied against parent claim 15. Therefore, the overall teachings of Kennedy, Tomcik, Oka and Kolls cannot render claim 32 obvious. Reversal of the obviousness rejection is requested.

VIII. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the final rejections of claims 14-41 should be reversed.

Claims Appendix, Evidence Appendix and Related Proceedings Appendix sections are found in the attached pages.

Respectfully submitted,

KENYON & KENYON LLP

 (R. No. 36,197)

Dated: December 24, 2008

By: JOHN LEE for Gerard Messina
Gerard A. Messina
Reg. No. 35,952
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646

APPENDIX TO APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 41.37

CLAIMS APPENDIX

The claims involved in this appeal, claims 14-41, in their current form after entry of all amendments presented during the course of prosecution, are set forth below:

14. A method for establishing a communication connection between a control center and a terminal which is situated in a motor vehicle, comprising:
- requesting, by a call by the control center, establishment of a connection to the terminal;
 - terminating, by the terminal, the call without accepting the call;
 - checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center;
 - in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center; and
 - transmitting data via the established communication connection.
15. A method for establishing a communication connection between a control center and a terminal, comprising:
- transmitting, by the control center, a call to a selected terminal as a function of an external request, and expecting a request for connection from the terminal after the terminal has performed the steps of: a) terminating the call without accepting the call; and b) checking, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center; and
 - subsequently communicating data between the control center and the terminal.
16. A method for establishing a communication connection between a control center and a terminal which is situated in a motor vehicle, comprising:
- receiving, by the terminal, a call requesting establishment of a connection;
 - terminating, by the terminal, the call without accepting the call;

checking, by the terminal, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center;

in response to a determination that the connection to the control center is permitted to be established, automatically establishing, by the terminal, a communication connection to the control center; and

transmitting data via the established communication connection.

17. The method as recited in claim 14, wherein the communication connection is established via a mobile wireless network and the call is a call specified in a mobile wireless standard.

18. The method as recited in claim 17, wherein the call is one of a telephone call and a data call.

19. The method as recited in claim 15, wherein the communication connection is established via a mobile wireless network and the call is a call specified in a mobile wireless standard.

20. The method as recited in claim 19, wherein the call is one of a telephone call and a data call.

21. The method as recited in claim 16, wherein the communication connection is established via a mobile wireless network and the call is a call specified in a mobile wireless standard.

22. The method as recited in claim 21, wherein the call is one of a telephone call and a data call.

23. The method as recited in claim 14, further comprising:
checking the request in the terminal based on one of a telephone number of a requestor and transmitted data.

24. The method as recited in claim 15, further comprising:
checking the request in the terminal based on one of a telephone number of a requestor and transmitted data.

25. The method as recited in claim 16, further comprising:
checking the request in the terminal based on one of a telephone number of a requestor and transmitted data.
26. The method as recited in claim 14, wherein the communication connection is established automatically by the terminal dialing into a network.
27. The method as recited in claim 16, wherein the communication connection is established automatically by the terminal dialing into a network.
28. The method as recited in claim 14, wherein the terminal terminates the call prior to checking whether the connection to the control center is permitted to be established, and wherein the terminal subsequently establishes the communication connection after the checking step.
29. The method as recited in claim 15, wherein the terminal terminates the call prior to checking whether the connection to the control center is permitted to be established, and subsequently communicating data after the checking step.
30. The method as recited in claim 16, wherein the terminal terminates the call prior to checking whether the connection to the control center is permitted to be established, and wherein the terminal subsequently establishes the communication connection after the checking step.
31. The method as recited in claim 14, wherein communication between the terminal and control center takes place according to a standardized client-server communication type.
32. The method as recited in claim 29, wherein the communication takes place according to WAP.
33. The method as recited in claim 15, wherein communication between the terminal and control center takes place according to a standardized client-server communication type.
34. The method as recited in claim 33, wherein the communication takes place according to WAP.

35. The method as recited in claim 16, wherein communication between the terminal and control center takes place according to a standardized client-server communication type.

36. The method as recited in claim 35, wherein the communication takes place according to WAP.

37. A system for establishing a communication connection between a control center and a terminal which is situated in a motor vehicle, data being transmitted via the established communication connection, comprising:

- a control center including an arrangement configured to transmit a request to establish a connection via a call by a transmission path; and

- a terminal including an arrangement which is configured to receive the call, terminate the call without accepting the call, check, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center, and in response to a determination connection automatically establish a connection to the control center.

38. A system for establishing a communication connection between a control center and a terminal, data being transmitted via the established communication connection, comprising:

- a control center including an arrangement configured to place a call to a selected terminal based on an external request, and configured to expect a request to establish a connection from the terminal after the terminal has performed the steps of: a) terminating the call without accepting the call; and b) checking, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center, and configured to subsequently perform a client-server communication with the terminal.

39. A system for establishing a communication connection between a control center and a terminal situated in a motor vehicle, data being transmitted via the established communication connection, comprising:

- a terminal including an arrangement configured to: a) receive a request call from the control center to establish a connection; b) terminate the call without accepting the call; c) check, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center,

and d) in response to a determination that the connection to the control center is permitted to be established, automatically establish at least one predefined connection to the control center.

40. A computer-readable storage medium storing a computer program having program code which, when executed by a computer at a control center, causes the computer to: a) place a call to a selected terminal based on an external request; b) expect a request to establish a connection from the terminal after the terminal has i) terminated the call without accepting the call and ii) checked, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center, and c) subsequently perform a client-server communication with the terminal.

41. A computer-readable storage medium storing a computer program having program codes, which when executed by a computer at a terminal in a motor vehicle, causes the computer to: a) receive from a control center a request call to establish a connection to the control center; b) terminate the call without accepting the call; c) check, on the basis of data delivered by the call, whether the call is at least one of intended to initiate a connection to the control center and authorized to initiate a connection with the control center, and d) in response to a determination that the connection to the control center is permitted to be established, automatically establish at least one predefined connection to the control center.

EVIDENCE APPENDIX

In the present application, there has been no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132, or other evidence entered by the Examiner and relied upon by Appellants in the present appeal.

RELATED PROCEEDINGS APPENDIX

No appeal or interference which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal is known to exist.